

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>NORTHEASTERN PLASTICS, INC. AND</b>	§	
<b>TRADER PROPERTIES, LLC</b>	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	<b>CIVIL ACTION NO. 4:17-CV-3298</b>
	§	
<b>ALTERRA EXCESS &amp; SURPLUS</b>	§	
<b>INSURANCE COMPANY AND MARKEL</b>	§	
<b>SERVICE INCORPORATED</b>	§	
	§	
<i>Defendants.</i>	§	

---

---

**DEFENDANTS' NOTICE OF REMOVAL**

---

---

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§1441 and 1446, Defendants Evanston Insurance Company, as successor by merger to Alterra Excess & Surplus Insurance Company ("Evanston"), and Markel Service, Incorporated ("MSI") files this Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy and respectfully shows the Court the following:

**I. FACTUAL BACKGROUND**

1. This is an insurance claim based on alleged property damage to a commercial property located in Houston, Texas. On or about September 25, 2017, Northeastern Plastics, Inc. and Trader Properties, LLC ("Plaintiffs") filed their Original Petition in the matter styled as Cause No. 2017-63133; *Northeastern Plastics, Inc. and Trader Properties, LLC v. Alterra Excess & Surplus Insurance Company and Markel Service Incorporated*; In the 189th Judicial District Court of Harris County, Texas. Evanston insured the property during the relevant time period.

2. Plaintiffs served MSI with their Original Petition on or about October 12, 2017. Accordingly, Defendants timely file this Notice of Removal within thirty (30) days of receiving service of process and citation. *See* 28 U.S.C. §1446(b).

## **II. BASIS FOR REMOVAL**

3. Defendants file this Notice of Removal within thirty (30) days of receiving Plaintiffs' Original Petition. *See* 28 U.S.C. §1446(b). This Notice of Removal is being filed within one (1) year of the commencement of this action. *See id.*

4. Upon information and belief, Plaintiffs are, and were at the time the lawsuit was filed, Texas companies domiciled and doing business in Harris County, Texas.

5. Defendant MSI is an Illinois corporation with its principal place of business in Illinois.

6. Defendant Evanston is an Illinois corporation with its principal place of business in Illinois.

7. Therefore, removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

8. The amount in controversy requirement for diversity jurisdiction is satisfied in this case as demonstrated by Plaintiffs' Original Petition in which Plaintiffs allege that they seek "monetary relief of over \$1,000,000.00." *See* Plaintiffs' Original Petition at pp. 9. This amount exceeds the jurisdictional requirements for subject matter jurisdiction, and demonstrates that the amount in controversy requirement is satisfied.

## **III. REMOVAL IS PROCEDURALLY CORRECT**

9. Plaintiff served MSI's registered agent on October 12, 2017. Accordingly, Defendants file this Notice of Removal within the thirty (30) day time period required by 28 U.S.C. Section 1446(b).

10. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiffs' claim allegedly occurred in this District and Division.

11. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

12. Pursuant to 28 U.S.C. §1446(d), promptly after Defendants file this Notice, written notice of the filing will be given to Plaintiffs, the adverse parties.

13. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Harris County District Court, promptly after Defendants file this Notice.

### **CONCLUSION**

Based upon the foregoing, and other documents filed contemporaneously with this Notice of Removal, which are incorporated by reference, Defendants hereby remove this case to this court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Rodrigo "Diego" Garcia, Jr  
RODRIGO "DIEGO" GARCIA, JR.  
Texas State Bar No. 00793778  
S.D. Tex. Bar No. 782726  
One Riverway, Suite 1400  
Houston, TX 77056  
Telephone: (713) 403-8210  
Telecopy: (713) 403-8299

**COUNSEL FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of October, 2017, a true and correct copy of this document was delivered in accordance with the Federal Rules of Civil Procedure to the following:

Robert C. Lane  
Jack Kitchen  
The Lane Law Firm, PLLC  
6200 Savoy Drive, Ste 1150  
Houston, Texas 77036

/s/ Rodrigo "Diego" Garcia, Jr.  
RODRIGO "DIEGO" GARCIA, JR.